

EXHIBIT 4

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1 David Pakter - 9-8-2009
 2 THE HEARING OFFICER: Take us
 3 off until the witness gets here please, Sarah.
 4 (Off the record.)
 5 THE HEARING OFFICER: I'm
 6 Doug Bantle, the hearing officer.
 7 MS. HART: Thank you.
 8 THE HEARING OFFICER: You've
 9 met counsel -- this is the counsel for the
 10 other side --
 11 MS. HART: Hi.
 12 THE HEARING OFFICER: -- the
 13 Respondent, Chris Callagy. He'll ask you some
 14 questions after Phil ends up with his. I'm
 15 going to swear you in. You don't have to
 16 stand. Just raise your right hand please. Do
 17 you swear that the testimony you're about to
 18 give is the truth, the whole truth and nothing
 19 but the truth?
 20 MS. HART: I do.
 21 DARLENE HART; Sworn.
 22 THE HEARING OFFICER: Thank
 23 you very much. Mr. Oliveri, your witness.
 24 MR. OLIVERI: Thank you, Mr.

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1 Hart - Direct - Oliveri
 2 been --?
 3 THE HEARING OFFICER: Since
 4 1980 what?
 5 THE WITNESS: 98.
 6 THE HEARING OFFICER: 98?
 7 THE WITNESS: Uh-huh.
 8 BY MR. OLIVERI: (Cont'g.)
 9 Q. And how long have you been
 10 working as payroll secretary for the School of
 11 Art and Design?
 12 **A. Since 1998.**
 13 Q. What are -- could you please
 14 state your duties and responsibilities as
 15 payroll secretary?
 16 **A. I handle all human resources.**
 17 **I handle all timekeeping, medical coverage,**
 18 **leave of absence, whatever teachers ask,**
 19 **payroll questions, you know, as far as salary**
 20 **differentials, medical leave.**
 21 Q. Ms. Hart, were you working
 22 anywhere -- excuse me. I apologize, withdrawn.
 23 Were you working with the
 24 Department of Education in any other position

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1 Hart - Direct - Oliveri
 2 Bantle.
 3 DIRECT EXAMINATION
 4 BY MR. OLIVERI:
 5 Q. Good morning, Ms. Hart.
 6 Could you please state your full name on the
 7 record?
 8 **A. Darlene Hart.**
 9 Q. Okay. And Ms. Hart, are you
 10 currently employed?
 11 **A. Yes.**
 12 Q. Where are you currently
 13 employed?
 14 **A. High School of Art and**
 15 **Design --**
 16 Q. And --?
 17 **A. -- 1075 Second Avenue.**
 18 Q. And in what capacity are you
 19 employed at the School of Art and Design?
 20 **A. Payroll secretary.**
 21 Q. And how long have you been
 22 employed by the School of Art and Design?
 23 **A. Since 1998.**
 24 Q. And how long have you

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1 Hart - Direct - Oliveri
 2 besides payroll secretary before 1998?
 3 **A. I was a school aide from 1997**
 4 **to 1998.**
 5 Q. So, were you working -- is it
 6 your testimony that you worked -- you had been
 7 working with the Department of Education since
 8 1997?
 9 **A. Yes.**
 10 Q. Were you a payroll secretary
 11 for the School of Art and Design for the school
 12 year of 2006-2007?
 13 **A. I was. Yes.**
 14 Q. Do you know -- personally
 15 know who an individual by the name of David
 16 Pakter is?
 17 **A. Only as a teacher. Not out**
 18 **of the school. I know him as being an art**
 19 **teacher in the school.**
 20 THE HEARING OFFICER: You --
 21 you knew that he was a teacher? You didn't
 22 know him as an individual, but you knew he was
 23 like on paper?
 24 THE WITNESS: No. I knew him

4 (Pages 2690 to 2693)

immediately forward copies of the decision to the employee and to the clerk or secretary of the employing board. The written decision shall include the hearing officer's findings of fact on each charge, his or her conclusions with regard to each charge based on said findings and shall state what penalty or other action, if any, shall be taken by the employing board. At the request of the employee, in determining what, if any, penalty or other action shall be imposed, the hearing officer shall consider the extent to which the employing board made efforts towards correcting the behavior of the employee which resulted in charges being brought under this section through means including but not limited to:

remediation, peer intervention or an employee assistance plan. In those cases where a penalty is imposed,

the employee shall be given the opportunity to present evidence in support of his or her position.

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- b. A copy of the employee's request for a hearing (3020-a-2)
- c. A notice of the need for a hearing (Form 3020-a-5)
- d. The place to be provided by the board for holding the hearing, within the school district or the county seat; (Form 3020-a-5)
- e. Name, address and telephone number of the attorney, if any, who will represent the complainant at the hearing; (Form 3020-a-5)
- f. The name of the panel member selected by the school board, if applicable; (Form 3020-a-6)
- g. Whether an expedited hearing is sought, and whether the employee is suspended, either with or without pay.
- h. An estimate of the number of days needed for the hearing.

2. Forward to the Employee by **certified mail, return receipt requested:**

- a. The place to be provided by the board for holding the hearing.
- b. The name and address of the attorney, if any, who will represent the complainant at the hearing.
- c. Whether an expedited hearing is sought, and whether the employee is suspended, either with or without pay.
- d. An estimate of the number of days needed for the hearing
- e. The name of the panel member selected by the board of education, if applicable.

Separate notification of the need for a hearing must be given to the Commissioner of Education with respect to each employee against whom charges have been filed. If the board has indicated that charges involve pedagogical incompetence or issues involving pedagogical judgement and the board fails to name a panel member in this notice, the Commissioner will appoint a panel member for the board. **It is essential that a representative of the district contact the board's selected panel member to ascertain that the panel member will be available for the duration of the hearing.**

Within five days after receiving the copy of the notice of the need for a hearing which includes charges of pedagogical incompetence or issues involving pedagogical judgement, the employee must notify the Commissioner of Education and the school board in writing **by certified mail**, of the name of his selection for the hearing panel. If the employee fails to notify the Commissioner, and he has not waived his right to a panel hearing, the Commissioner will appoint a panel member for the employee.

Upon notification of the need for a hearing, the Commissioner will request that the American Arbitration Association provide a list, including a brief biography, of potential hearing officers. The Commissioner will forward a copy of such list to the attorney representing the board and the employee. Not later than ten days from the mailing of the list, the parties or their representatives shall by agreement select a hearing officer and notify the Commissioner of such selection. If the parties fail to notify the Commissioner

within, ten days the Commissioner shall request that the association select a hearing officer.

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The district clerk or the secretary of the board of education must maintain on file an up-to-date list of the panel members supplied by the Commissioner, from which list the school board and the employee must

